

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

CAROL LYNN B. KENDALL FALKINER,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 2:10-cv-475
)	Removed from the Norfolk City
ONEWEST BANK, FSB,)	Circuit Court (Case No. CL10-5417)
)	
and)	
)	
EQUITY TRUSTEES, LLC,)	
)	
Defendants.)	

**MOTION TO DISMISS
BY EQUITY TRUSTEES, LLC**

Defendant Equity Trustees, LLC (“Equity Trustees”), by counsel, submits the previously filed Demurrer of Defendant Equity Trustees, LLC (the “Demurrer”) and the concurrently filed Memorandum in Support of Motion to Dismiss by Equity Trustees, LLC and requests that this Court treat the Demurrer as a Motion to Dismiss the Plaintiff’s Complaint pursuant to Fed. R. Civ. P. 12(b)(6). Plaintiff’s Complaint fails to state a claim upon which relief may be granted against Equity Trustees.

WHEREFORE, for the reasons stated in the Demurrer, as well as the reasons advanced in the concurrently filed Memorandum in Support of Motion to Dismiss by Equity Trustees, LLC and those that may be advanced in oral argument of this motion, Equity Trustees requests that the Plaintiff’s Complaint be dismissed with prejudice and without leave to amend.

Dated: October 4, 2010

Respectfully Submitted,

EQUITY TRUSTEES, LLC

By: /s/ Joseph M. LeNoir
Joseph M. LeNoir (VSB No. 75124)
Bierman, Geesing, Ward & Wood, LLC
8100 Three Chopt Road, Suite 240
Richmond, Virginia 23229
(804) 282-0463 t.
(804) 282-0541 f.
joseph.lenoir@bgw-llc.com
Counsel for Defendant Equity Trustees, LLC

CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of October, 2010, I electronically filed the foregoing Motion to Dismiss via the CM/ECF system which will send notification of such filing to the following:

Robert W. McFarland
Erin Q. Ashcroft
McGuire Woods LLP
101 W. Main Street, Ste. 9000
Norfolk, VA 23510

I further certify that I sent the foregoing Motion to Dismiss by first class mail, postage pre-paid to the following:

Olga Ford
197 Heather Glen Rd.
Sterling, Virginia 20165

/s/ Joseph M. LeNoir
Joseph M. LeNoir (VSB No. 75124)
Bierman, Geesing, Ward & Wood, LLC
8100 Three Chopt Road, Suite 240
Richmond, Virginia 23229
(804) 282-0463 t.
(804) 282-0541 f.
joseph.lenoir@bgw-llc.com
Counsel for Defendant Equity Trustees, LLC